IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 1571 of 2005

Between:

Pyam Chellaiah, s/o.Ramaiah,
M/H, S.T.R/o.Butchampet, Gopalapuram Mandal, West Godavari Dist.

..... PETITIONER

AND

1 The Revenue Divisional officer, Jangareddy Gudem, West Godavari Dist.
2 The Mandal Revenue officer, Gopalpuram Mandal, West Godavari Dist.
3 Tutika Ramarao, S/o.Narasaiah
Guddigudem, Gopal Puram Mandal,
West Godavari District.

.....RESPONDENTS

WHEREAS the Petitioner above named through his Advocate Mr., presented this writ petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly one in the nature of writ of Mandamus declaring the in action of the first respondent not considering the appeal filed by the petitioner as illegal and amounting to not exercising the jurisdiction vested in him and consequently direct the first respondent to register and decide the appeal filed by the petitioner and pass such other order or orders which this Hon'ble court may deem fit and proper in the circumstances of the case and in the interest of justice.

Counsel for the Petitioner:MR.V.RAGHU

Counsel for the Respondent No.: GP FOR REVENUE

The Court at the admission stage made the following:

ORDER:-

This writ petition is filed for issuance of a writ of Mandamus declaring the action of first respondent in not considering the appeal filed by the petitioner as illegal and amounts to not exercising the jurisdiction vested in him and consequently direct him to register and decide the appeal filed by the petitioner and pass appropriate orders.

It is submitted by the learned counsel appearing on behalf of the petitioner that the petitioner, along with his family members, is cultivating Ac.12-62 cents of land in R.S.No.67, corresponding to Old S.No.159 of Butchampet, hamlet of Nandigudem, which is the ancestral property of the petitioner and his brothers. Further, it is stated that in the year 1935, fore-father of third respondent gave some money to the petitioner's fore-father by keeping the land under mortgage. Taking advantage of the innocence of petitioner's fore-father, third respondent's fore-father got obtained the registered document in his favour in the year 1939 in regard to subject property, which is invalid as per the Agency Tracts Interest Act, 1917. Subsequently, third respondent obtained pattedar Pass books in his favour. Aggrieved at the illegal action of second respondent in granting pattedar Pass books in favour of third respondent in regard to subject property, the petitioner filed appeal before first respondent in the year 2001 and the same was not yet disposed of. Therefore, the petitioner filed this writ petition.

This Court on 3-2-2005 granted time to the learned Government Pleader for

obtaining instructions, but he has not taken any steps to get instructions till date. On the other hand, the learned Government Pleader took an objection that the appeal has to be filed under Section 5 of the Act, whereas the petitioner filed the appeal under Section 9 of the Act. Quoting wrong provision of law is not a bar in entertaining the appeal and disposing of the same.

In the circumstances, I deem it appropriate to dispose of the writ petition at the admission stage itself with a direction to first respondent to dispose of the appeal filed by the petitioner as expeditiously as possible.

8-6-2005.

stv/-

To

1 The Revenue Divisional officer, Jangareddy Gudem, West Godavari Dist.
2 The Mandal Revenue officer, Gopalpuram Mandal, West Godavari Dist.
3 Two CCs to the G.P. for Revenue, High Court of AP, Hyderabad (OUT).